

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

UNITED STATES OF AMERICA	§	
Plaintiff	§	
	§	
v.	§	No. 9:13CV304
	§	
\$100,050.58 IN UNITED STATES	§	
CURRENCY	§	
Defendant	§	

VERIFIED COMPLAINT FOR FORFEITURE IN REM

In accordance with Fed. R. Civ. P. Supplemental Rule G(2), the United States of America, Plaintiff, brings this complaint and alleges as follows:

Nature of the Action

1. This is an action to forfeit property to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

Defendant In Rem

2. \$100,050.58 in United States currency (Defendant Property) was seized from TD Ameritrade Account xxxx72698 (72698) pursuant to a seizure warrant issued by United States Magistrate Judge John D. Love on August 15, 2013.

Jurisdiction and Venue

3. The Court has subject matter jurisdiction over an action commenced by the United States pursuant to 28 U.S.C. § 1345, and over an action for forfeiture pursuant to 28 U.S.C. § 1355(a).

4. The Court has *in rem* jurisdiction over the Defendant Property pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred in this district.

5. Venue is proper in this district pursuant to 28 U.S.C. §1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred in this district.

Basis for Forfeiture

6. The Defendant Property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) because it is property “which constitutes or is derived from proceeds traceable to a violation of...any offense constituting ‘specified unlawful activity’ (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.” Further, 18 U.S.C. § 1956(c)(7)(D) specifically identifies 18 U.S.C. § 641 (relating to public money, property, or records) as a “specified unlawful activity.”

Facts

7. The Defendant Property is subject to forfeiture based on the following facts:

a. Tariq Mahmood, M.D. (Mahmood) is a general practitioner licensed by the Texas Medical Board. Mahmood operated several hospitals including Shelby Hospital, LLC, dba Shelby Regional Medical Center (“Shelby Regional”) located in Center, Texas, in the Eastern District of Texas. Shelby Regional was a Medicare and Medicaid provider.

b. The Centers for Medicare and Medicaid Services (“CMS”) is responsible for paying certain incentives for eligible professionals (EPs) and hospitals who (1) possess certified electronic health records (EHR) technology, and (2) meaningfully use that certified EHR technology, for a 90-day reporting period for their first year of participation and the entire year for subsequent years. Qualified EPs and/or hospitals are required to attest to meeting the criteria each year by submitting an attestation that they possess certified EHR technology, and that they meaningfully use the EHR technology.

c. In order to demonstrate meaningful use of certified EHR technology, hospitals are required by CMS to establish user identifications (“User IDs”) for electronic submissions and attestations. These User IDs not only require the creation of a designated “User ID,” they also require the name and Social Security number of the actual user, which for the most part are the hospital administrators who oversee the day-to-day operations of the facilities. According to CMS, the following User ID was created for Shelby Regional:

<u>User ID</u>	<u>Creation Date</u>	<u>Hospital</u>	<u>Name</u>	<u>SSN (last 4 digits)</u>
shelbypjb	10/2/12	Shelby Regional	Pamela Barton	1657

d. Joe White (White), an employee of Mahmood's who performed work for many of Mahmood's hospitals including Shelby Regional, was responsible for EHR attestation at Shelby Regional. In 2012, White asked Pamela Barton (Barton), then Assistant Administrator for Shelby Regional, to submit the 2012 EHR attestation for Shelby Regional because he was concerned that the number of attestations he had submitted for other hospitals would raise a red flag. Barton refused because she did not believe Shelby Regional met the criteria for attestation, namely, that Shelby Regional did not have the capability to meaningfully use their certified EHR technology. On November 20, 2012, White submitted the 2012 EHR attestation for Shelby Regional by using a User ID that White created for Barton as well as Barton's Social Security number. Barton did not authorize White to create the User ID or use her personal information.

e. The false attestation resulted in the January 29, 2013, electronic deposit of \$785,655 to City Bank Account Number xxxx1184 (1184) in the name of Shelby Hospital, LLC. These monies represent the 2012 EHR Medicare incentive payment for Shelby Regional.

f. Mahmood transferred EHR funds from his hospitals, including Shelby Regional, numerous times between several of the hospital bank accounts and his personal bank accounts. Mahmood caused \$3,800,000 of the EHR funds to be deposited

into TD Ameritrade Account 72698, an account in the name of Esha Mahmood, Mahmood's daughter.

Potential Claimants

8. The only known potential claimants to the Defendant Property are as follows:

- a. Esha Mahmood, 835 Bluffridge Cedar Hill, Texas 75104,
- b. Tariq Mahmood, M.D., represented by Mike Uhl, Fitzpatrick Hagood Smith & Uhl LLP, 2515 McKinney Ave., Suite 1400, Dallas, Texas 75201; and Dan Cogdell, 402 Main Street, 4th Floor, Houston, Texas 77002, and
- c. Shelby Hospital, LLC, dba Shelby Regional Medical Center, 602 Hurst Street, Center, Texas 75935.

Claim for Relief

9. The United States respectfully requests that the Court forfeit the Defendant Property to the United States, award costs and disbursements in this action to the United States, and order any other relief that the Court deems appropriate.

Respectfully submitted,

JOHN M. BALES
UNITED STATES ATTORNEY

/s/ Alan R. Jackson

Alan R. Jackson
Assistant United States Attorney
Texas Bar No. 14053300
110 N. College, Suite 700
Tyler, TX 75702
tel: (903) 590-1400
fax: (903) 590-1439
AJackson2@usa.doj.gov

VERIFICATION PURSUANT TO 28 U.S.C. § 1746

I, Travis Wall, hereby state that:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI).
2. I have read this Complaint, and the information contained herein is true and correct to the best of my knowledge.
3. The information contained in this Complaint comes from the official files and records of the United States, statements from other law enforcement officers, and my investigation of this case.

I state and verify under penalty of perjury that the foregoing is true and correct.



Travis Wall
Special Agent
FBI

Dated: December 17, 2013